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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,135	12/15/2004	Rainer Schmidt	KW-10PCT	5273

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EXAMINER

KUHN, MART K

ART UNIT PAPER NUMBER

3637

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/518,135	Applicant(s) SCHMIDT, RAINER	
	Examiner Mart Kuhn	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>15 December 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the means interacting with the guide rails on the inner **and** outer cross sections, as in claim 2, and the ball bearings, as in claim 7, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(h)(2) and (u) because the enlarged views of Figures 13 and 14 are not labeled as separate views, and because the multiple partial views comprising Figures 13 and 14 are not appropriately identified.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: references to particular claims, as in lines 11–12 of page 3 and 14–15 of page 4, are improper and must be removed since claims 8 and 9 are referred to but have not been entered. In addition, because claims are subject to amendment, cancellation, and renumbering during the course of patent prosecution, applicant should refrain from referencing claims in the specification, as it adds nothing to the description of the invention and provides a potential source of confusion.

Appropriate correction is required.

Claim Objections

6. Claims 1–3, 5 and 6 are objected to because of the following informalities: inconsistent use of terminology, such as “guide rails” in line 10 of claim 1 but “guide rods” in line 12; use of “cross section” to mean “surface” as in claims 2, 5 and 6; and an extraneous comma after the word “essentially” in claim 3. Appropriate correction is required.

Claim Rejections—35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 2–7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 2 recites the limitation that means “interact[] with the guide rails on the inner and/or outer cross section” in lines 3–4 of the claim. This indicates three claimed arrangements of the means: interacting only with the “inner cross section”, interacting only with the “outer cross section”, and interacting with both cross sections simultaneously. Of these three claimed possibili-

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ties, only the first two are supported by the specification; the claim to means interacting with inner and outer guide rail cross sections is unsupported.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1–7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Regarding claim 1, the phrase “preferably” in line 11 renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. For the purposes of this examination, claim 1 will be treated as claiming means, positioned at the upper ends of the guide rails, with which the pull cables are secured to the guide rails. Claim 1 also recites the limitation “formed by a profile” in line 5. It is unclear what is meant by this phrase or to what it is referring. Claim 1 further recites the phrase “in each case” in line 10. There is insufficient antecedent basis for this limitation in the claim. As phrased, it implies the existence of multiple cases or configurations which have not been referred to heretofore.

12. Claim 2 recites the limitation “on the inner and/or outer cross section” of the guide rails in lines 3–4 of the claim. Similarly, claim 6 recites the limitation “against the inner cross section” of the guide rails in line 3. There is insufficient antecedent basis for these limitations in the claims. While it is clear that the guide rails would inherently have an outer surface, no such inference can be made about an inner surface and an antecedent reference is necessary. For the purposes of this examination, claim 2 will be treated as referring to “an inner and/or outer cross section” and claim 6 will be treated as positively reciting an inner surface of the guide rails.

13. Claims 3, 5 and 6 recite the limitation “the guide rail” in lines 2–3, 3–4 and 3–4, respectively. There is insufficient antecedent basis for this limitation in the claims. Claim 1 recites “at least two guide rails” and it is therefore unclear which guide rail is meant by “the guide rail”. For the purposes of this examination, claims 3, 5 and 6 will each be treated as referring to each guide rail.

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14. Claim 4 recites the limitation "the means" in line 2 of the claim. There is insufficient antecedent basis for this limitation in the claim. Claims 1 and 2 each recite "means" and it is unclear which means is being referred to in claim 4. For the purposes of this examination, claim 4 is treated as referring to the "means which interacts with the guide rails" of claim 2.

Claim Rejections—35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Bräuning, WIPO publication WO 00/24290. Bräuning teaches a height-adjustable working table (Figures 1–3) having:

- at least two guide rails (20) for receiving a worktop (3), the height of which is adjustable by means of a motor-driven cable drive (7) having a cable drum (71) and pull cables (72);
- wherein the worktop is mounted displaceably on the guide rails such that it can move downward by virtue of its own weight, in that cable tension and gravity provide opposing vertical forces;
- the cable drum and drive are positioned directly below the worktop (Figure 2), and thus in the region of the worktop; and
- the guide rails have means (74, 75) for securing the pull cables disposed at their upper ends.

As regards claims 2 and 4, Bräuning further teaches a working table having means (40) engaging the outer surfaces of the guide rails, and wherein said means engaging the guide rails are front and rear rollers (Figures 3, 4).

Claim Rejections—35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bräuning, WIPO publication WO 00/24290, as applied to claims 1 and 4 above, and further in view of Jackson, US patent 4,553,726. Bräuning does not teach a vertically adjustable working table having guide rails designed as rectangular tubes. However, Jackson teaches a vertically adjustable platform (2) supported by rollers (40, 50) engaging a guide rail (4), and wherein the guide rail is a rectangular tube (column 3, lines 1–2). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the working table of Bräuning by using rectangular tubes as guide rails, as taught by Jackson for the purpose of providing a wide bearing surface for the rollers.

As regards claim 5, Bräuning does not disclose a working table wherein the front and rear rollers bear against the outer surface of the guide rails with the front roller below the rear one. However, the front (50) and rear (40) rollers of Jackson bear against the outer surface of the guide rail (Figures 1, 2), with the front roller below the rear roller (column 3, lines 41–48). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the working table of Bräuning by having the rollers bear against the outer surface of the guide rails with the front roller lower than the rear roller, as taught by Jackson for the purpose of effectively counterbalancing the torque from of the cantilevered work platform.

19. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bräuning, WIPO publication WO 00/24290, as applied to claim 4 above, and further in view of MacKay, US patent 3,411,464. Bräuning does not teach a vertically adjustable working table wherein the rollers bear against the inner surface of the guide rails with the front roller above the rear one. However, MacKay teaches a vertically adjustable platform (33) supported by front (27) and rear (30) rollers bearing against channels (24, 25) defined on the inner surface of guide rails (13, 14), and wherein the front roller is above the rear roller (Figure 1). It would have been obvious, to one of ordinary skill in the art at the time the invention

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was made, to modify the working table of Bräuning by making the rollers bear against the inner surface of the guide rails with the front roller above the rear one, as taught by MacKay for the purpose of constraining the rollers to fixed paths and effectively counterbalancing the torque from the cantilevered work platform.

20. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bräuning, WIPO publication WO 00/24290, as applied to claim 4 above, and further in view of Wolfe, US patent 2,749,196. Bräuning does not teach an adjustable working table wherein the rollers contain ball bearings. However, Wolfe teaches an adjustable table (44) supported by rollers (40) engaging a guide rail (14), and wherein the rollers contain ball bearings (column 3, line 9). It would have been obvious, to one of ordinary skill in the art at the time the invention was made, to modify the working table of Bräuning by using ball bearings in the rollers, as taught by Wolfe for the purpose of allowing the platform to travel smoothly along the guide rail, and because the use of ball bearing rollers is well known in the art as demonstrated by the use by Wolfe.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is cited on form PTO-892 enclosed herewith. The cited patents disclose a variety of vertically adjustable work tables.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mart Kuhn whose telephone number is (571) 272-8926. The examiner can normally be reached on M-F, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MK MK
10/25/06

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